

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-12346 MLW

MARLOW WILLIAMS, SR.,
Plaintiff.

v.

GREG LONG, OTIS
HAREWOOD, GREG LONG,
BRIAN ALBERT, EDWARD
MEADE, JOHN CONROY, AND
THE CITY OF BOSTON,
Defendants.

**ANSWER OF THE DEFENDANT BRIAN ALBERT TO
PLAINTIFF'S COMPLAINT, WITH AFFIRMATIVE DEFENSES AND JURY DEMAND**

NOW COMES Brian Albert, Defendant in the above-entitled
action, and hereby answers the Plaintiff's Complaint
("Complaint"), as follows:

PARTIES

1. Defendant Brian Albert states that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph one of the Complaint, and therefore, neither admits nor denies said allegations.
2. Defendant Brian Albert admits the allegations contained in Paragraph two of the Complaint.
3. Defendant Brian Albert admits the allegations contained in Paragraph three of the Complaint.
4. Defendant Brian Albert admits the allegations contained in Paragraph four of the Complaint.

5. Defendant Brian Albert admits the allegations contained in Paragraph five of the Complaint.

6. Defendant Brian Albert admits the allegations contained in Paragraph six of the Complaint.

7. Defendant Brian Albert admits the allegations contained in Paragraph seven of the Complaint.

8. Defendant Brian Albert states that Paragraph eight of the Complaint contains legal conclusions, and therefore no response is required. To the extent that an answer is required, the allegations in Paragraph eight are denied.

COUNT I

Paragraphs 1-7 of Count I of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT II

Paragraphs 1-8 of Count II of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT III

Paragraphs 1-8 of Count III of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT IV

Paragraphs 1-7 of Count IV of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT V

Paragraphs 1-8 of Count V of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT VI

Paragraphs 1-8 of Count VI of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT VII

Paragraphs 1-7 of Count VII of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT VIII

Paragraphs 1-8 of Count VIII of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT IX

Paragraphs 1-8 of Count IX of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT X

1. Defendant Brian Albert states that Paragraph one of Count X of the Complaint contains legal conclusions, and therefore no response is required. To the extent that an answer is required, the allegations contained in Paragraph one of Count X are denied.

2. Defendant Brian Albert denies the allegations contained in Paragraph two of Count X of the Complaint.

3. Defendant Brian Albert denies the allegations contained in Paragraph three of Count X of the Complaint.

4. Defendant Brian Albert denies the allegations contained in Paragraph four of Count X of the Complaint.

5. Defendant Brian Albert denies the allegations contained in Paragraph five of Count X of the Complaint.

6. Defendant Brian Albert states that Paragraph six of Count X of the Complaint contains legal conclusions, and therefore no response is required.

7. Defendant Brian Albert denies the allegations contained in Paragraph seven of Count X of the Complaint.

COUNT XI

1. Defendant Brian Albert states that Paragraph one of Count XI of the Complaint contains legal conclusions, and therefore no response is required. To the extent that an answer is required, the allegations contained in Paragraph one of Count XI are denied.

2. Defendant Brian Albert denies the allegations contained in Paragraph two of Count XI of the Complaint.

3. Defendant Brian Albert denies the allegations contained in Paragraph three of Count XI of the Complaint.

4. Defendant Brian Albert denies the allegations contained in Paragraph four of Count XI of the Complaint.

5. Defendant Brian Albert denies the allegations contained in Paragraph five of Count XI of the Complaint.

6. Defendant Brian Albert denies the allegations contained in Paragraph six of Count XI of the Complaint.

7. Defendant Brian Albert states that Paragraph seven of Count XI of the Complaint contains legal conclusions, and therefore no response is required.

8. Defendant Brian Albert denies the allegations contained in Paragraph eight of Count XI of the Complaint.

COUNT XII

1. Defendant Brian Albert states that Paragraph one of Count XII of the Complaint contains legal conclusions, and therefore no response is required. To the extent that an answer is required, the allegations contained in Paragraph one of Count XII are denied.

2. Defendant Brian Albert denies the allegations contained in Paragraph two of Count XII of the Complaint.

3. Defendant Brian Albert denies the allegations contained in Paragraph three of Count XII of the Complaint.

4. Defendant Brian Albert denies the allegations contained in Paragraph four of Count XII of the Complaint.

5. Defendant Brian Albert denies the allegations contained in Paragraph five of Count XII of the Complaint.

6. Defendant Brian Albert denies the allegations contained in Paragraph six of Count XII of the Complaint.

7. Defendant Brian Albert states that Paragraph seven of Count XII of the Complaint contains legal conclusions, and therefore no response is required.

8. Defendant Brian Albert denies the allegations contained in Paragraph eight of Count XII of the Complaint.

COUNT XIII

Paragraphs 1-7 of Count XIII of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT XIV

Paragraphs 1-8 of Count XIV of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT XV

Paragraphs 1-8 of Count XV of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT XVI

Paragraphs 1-7 of Count XVI of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT XVII

Paragraphs 1-8 of Count XVII of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT XVIII

Paragraphs 1-8 of Count XVIII of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

COUNT XIX

Paragraphs 1-8 of Count XIX of the Complaint contain allegations against a Defendant other than Brian Albert, and therefore no response from Defendant Brian Albert is required.

AFFIRMATIVE DEFENSES

First Affirmative Defense

The Complaint fails to state a claim against Defendant Brian Albert upon which relief may be granted.

Second Affirmative Defense

Defendant Brian Albert states that there is no factual connection between any unconstitutional municipal custom, policy or practice and any alleged violation of the Plaintiff's constitutional rights.

Third Affirmative Defense

Defendant Brian Albert states that at all relevant times, he acted in good faith and in accord with the Constitutions and laws of the United States and of the Commonwealth of Massachusetts.

Fourth Affirmative Defense

Defendant Brian Albert states that the Plaintiff has not been deprived of any rights secured by either the Constitutions or the laws of the United States, or of the Commonwealth of Massachusetts.

Fifth Affirmative Defense

Defendant Brian Albert states that the injury or damage alleged in Plaintiff's Complaint was neither caused nor proximately caused by him.

Sixth Affirmative Defense

Defendant Brian Albert states that the Plaintiff, by his own acts, omissions, conduct and activities is estopped from asserting any claims against Defendant Brian Albert.

Seventh Affirmative Defense

Defendant Brian Albert states that the Complaint fails to state a claim entitling the Plaintiff to relief because he is entitled to qualified immunity.

Eighth Affirmative Defense

Defendant Brian Albert states that the Complaint fails to state a claim entitling the Plaintiff to relief because the claim is barred under Heck v. Humphrey, 512 U.S. 477, 487 (1994).

JURY CLAIM

Defendant Brian Albert demands a trial by jury on all claims.

Respectfully submitted,

DEFENDANT BRIAN ALBERT,
Merita A. Hopkins
Corporation Counsel
By his attorneys:

CERTIFICATE OF SERVICE
I hereby certify that on this day
a true copy of the above document
was served upon the plaintiff by
mail/by hand/by fax.

11/2/05 /s/ Helen G. Litsas

/s/ Helen G. Litsas
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